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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,845	02/23/2004	Jay S. Walker	03-011	5892
22927	7590	04/27/2006	EXAMINER	
WALKER DIGITAL 2 HIGH RIDGE PARK STAMFORD, CT 06905				COBURN, CORBETT B
		ART UNIT		PAPER NUMBER
		3714		

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/784,845	WALKER ET AL.
	Examiner Corbett B. Coburn	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 July 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26,37 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26,37 and 38 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 July 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>03/28/05</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 8 & 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Fey (*Slot Machines, A Pictorial History of the First 100 Years*)

**Claims 1 & 38:** On page 94, Fey teaches a Caille 1901 Quintette slot machine.

Examiner has chosen this slot machine as representative of its class. Applicant's claims are broad enough to read on virtually every slot machine ever designed. Fey teaches determining a game parameter and a range of values associated with the game parameter (i.e., it has a paytable). The paytable controls at least one element of the game such that it effects the manner in which the game will be conducted – it controls which combinations win and how much is paid for the various winning combinations. Fey teaches displaying at least one symbol on a reel where each symbol represents a potential value within the range of values associated with the game parameter. Fey teaches selecting at random at least one of the displayed symbols – i.e., the reels spin and randomly selects which symbols appear on the payline and setting an actual value of the game parameter based on the randomly selected displayed symbol. The payout depends on which symbols appear on the payline. Thus, at least one element of the game is controlled using the actual value such that the manner in which the game is conducted

subsequent to setting the actual parameter is affected by the actual value. This affects a manner in which rewards are awarded in the game – i.e., for which combinations and in what amounts.

**Claims 2-4:** Fey teaches initiating, continuing, and ending game play using the actual value of the game parameter. The payable is set throughout the game.

**Claim 5:** The game parameter could also represent a number of game symbols with which to start a session. The term “game parameter” is so broadly defined in the specification that it could include virtually any aspect of the game that can be chosen randomly. In this case, since the player may randomly choose to bet on between 1 and 5 hands, the number of game symbols with which to start play is chosen randomly.

**Claim 8:** The game parameter could represent a number of reels used in a game. The player randomly chooses between 5 and 20 reels with which to play.

3. Claims 19-26 & 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US Patent Number 5,511,784).

**Claim 19:** Walker teaches initiating play of a game at a gaming device; changing a mode of the gaming device from a play mode to a parameter determination mode; receiving a signal from a player to initiate random determination of a game play parameter value; determining a game play parameter value based on a number that is randomly determined by the player (i.e., a random number); changing the game based on the game play parameter value; and changing a mode of the gaming device from the parameter determination mode to the play mode. (Figs 9A & B) Since the player may choose any game play parameter value, the game play parameter is determined at random.

**Claim 20:** Receiving the signal from a player includes receiving an indication of at least one type of game play parameter for which to determine a value. The player uses the menu of Fig 3 to indicate which type of parameter to change.

**Claim 21:** Receiving the signal from a player includes receiving an indication of at least one particular game play parameter for which to determine a value. (Figs 4A & B, 5, 6)

**Claim 22:** Claim 22 is a combination of claims 19 & 20, which see.

**Claim 23:** Walker teaches receiving a request to change the game, and wherein changing the mode of a gaming device from the play mode to the parameter determination mode is done in response to receiving the request to change the game. (Figs 9A & B)

**Claim 24-26:** Walker inherently teaches receiving an indication of a desired number of handle pulls to play the changed game by receiving money from the player. A player has to pay for each game. When the player puts in the money to play the game, this is an indication of a desired number of handle pulls to play the changed game – if the game costs a nickel and the player puts in a quarter, the player indicates that he wants to play five times.

**Claim 37:** Walker teaches receiving an indication of a game play parameter from a player of a gaming device; randomly determining a value for the game play parameter (i.e., the player provides random input of the value); and initiating a pre-paid session of game play (i.e., the player must pay before playing) wherein the gaming device is played using the randomly determined value. (Figs 9A & B)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7, 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey as applied to claim 1 above in view of Walker et al. (US Patent Number 6,068,552) and Applicant's disclosure.

**Claims 6, 7, 9-18:** Fey teaches the invention substantially as claimed but does not teach a modern system that is capable of adjusting game parameters on the fly nor does Fey teach the various game parameters claimed. Walker teaches a modern gaming machine that is adapted to change the gaming parameters on the fly. Walker teaches that allowing such changes will induce players to continue playing for extended periods of time. It would have been obvious to one of ordinary skill in the art at the time for the invention to have modified Fey in view of Walker to have a modern slot machine that is capable of changing parameters on demand in order to induce players to continue playing for extended periods of time. Applicant teaches that all of these various game parameters are equivalent. As Walker points out, changing such parameters induce players to continue playing for extended periods of time. It would have been a matter of obvious design choice at the time of the invention to have modified Fey in view of Applicant's disclosure to use these equivalent design elements (i.e., the different claimed game parameters) in order to induce players to continue playing for extended periods of time.

***Response to Arguments***

6. Applicant's arguments filed 11 July 2005 have been fully considered but they are not persuasive.
7. Applicant's arguments are based on the claims as amended and are answered in the rejection above.
8. Applicant's claims are overbroad, thus leading to the rejection stated above.
9. For instance, in claim 1, Applicant does not claim when the parameters are set. They may be set, as taught by Fey, in the factory before the game is ever played. Furthermore, Applicant does not claim how the parameter affects game play. In Fey's case, setting the parameter in the factory (i.e., the payable) affects the amount paid for a winning combination. Note that the payment may even be made by hand – Applicant's claims are broad enough to encompass this situation. Applicant is urged to narrow the claims to specifically describe Applicant's invention.
10. In regard to claims 19, etc., Applicant does not specify who or what randomly determines the number to be used to determine the parameters. This leaves it open for the player to do so.
11. With respect to claims 6, 7, 9-18, Applicant argues that he does not disclose the various game parameters as equivalent. Yet all must meet Applicant's definition:

“The term “game parameter” may refer to variables whose values govern play at the gaming device and are determined by a random selection process. Game parameters include game play parameters. Examples of game parameters include the payout for bar-bar-bar, the number of cherry symbols on the First reel, and the probability of a game character finding hidden treasure.”

Furthermore, Applicant's disclosure discusses the various game parameters in a single sentence – showing that they are indeed equivalent:

"Examples of parameters include: a number of game symbols to start a session with (e.g. number of carrots that a player is awarded as an initial starting value in a game spanning a number of spins; a multiplier value of payouts (e.g. all payouts over the next given number of spins multiplied by some value, the number of spins may also be a game parameter; a maximum number of spins allowed before player is ineligible for a puzzle completion bonus; a number of reels used in a game; a number of bonus symbols on each reel which initiate a bonus round; a rate of expiration of collected cherry symbols (e.g. a player might be paid 10 coins for each cherry accumulated over a twenty-five spin game, but the cherries gradually lose value after every handle pull - the expiration rate could be the number of credits in lost value per handle pull); a rate of accumulation of complementary (comp) points; a progression rate of a progressive jackpot; a payout for orange-orange-orange; a probability of bar-bar-bar; an amount of wager required per spin; a probability of a player getting into a bonus round; a number of puzzle pieces that need to be collected by a player during a puzzle game; a probability of bonus round payouts occurring (e.g. the portion of treasure chests selectable by the player that have a coin value); a number of whammy symbols which may reduce a player's credit balance; a number of handle pulls and/or an amount of time that a prepaid session and/or bonus game will last; and/or the like."

Clearly, these game parameters are disclosed as equivalent to one another.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

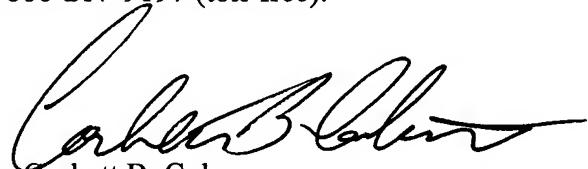
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Furry, (US Patent Number 5,511,784) teaches a slot machine that changes game parameters based on a random number generated by the machine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached on (571) 272-4438. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Corbett B. Coburn  
Primary Examiner  
Art Unit 3714

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